

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

CYPRUS AMAX MINERALS COMPANY,

Plaintiff,

v.

TCI PACIFIC COMMUNICATIONS, INC.,

Defendant.

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Case No. 11-CV-252-CVE-PJC

**PLAINTIFF CYPRUS AMAX MINERALS COMPANY'S RESPONSE  
TO DEFENDANT'S "NOTICE OF POTENTIAL RECORD CITATION ERROR"**

Reid E. Robison, Esquire  
OBA No. 7692  
Timothy J. Bomhoff, Esquire  
OBA No. 13172  
*McAfee & Taft A Professional Corporation*  
211 N. Robinson, Suite 1000  
Two Leadership Square, 10th Floor  
Oklahoma City, OK 73102

OF COUNSEL (Admitted *pro hac vice*):  
John F. Stoviak, Esquire  
Cathleen M. Devlin, Esquire  
*Saul Ewing LLP*  
Centre Square West  
1500 Market Street, 38th Floor  
Philadelphia, PA 19102-2186  
Telephone: 215-972-1095  
Facsimile: 215-972-1921

*Counsel for Plaintiff  
Cyprus Amax Minerals Company*

Dated: August 12, 2016

Plaintiff Cyprus Amax Minerals Company (“Cyprus”) submits this very brief Response to the “*Notice of Potential Record Citation Error*,” Dkt. No. 214 (“*Notice*”) filed by Defendant TCI Pacific Communications, Inc. (“TCI”) on July 22, 2016. TCI’s *Notice* is a procedurally inappropriate and substantively meritless attempt to manufacture an “error” in the Court’s February 2015 Opinion and Order ruling on the parties’ cross-motions for summary judgment in Phase I of this matter. Because TCI has already raised this precise issue before, and because no such “error” on the Court’s part exists in any event, TCI’s *Notice* should be disregarded.

TCI’s *Notice* purports to “identif[y] what appears to be an erroneous citation to the Phase I record materials” by noting that a War Work report cited by the Court did not relate specifically to TFMC. *See* Dkt. No. 214, at ¶ 2. As an initial matter, in TCI’s Phase I summary judgment briefing, Dkt. No. 174, at 24-25 n. 6, TCI specifically questioned the applicability of the statements in this very same War Work report to TFMC. The Court thus had every opportunity to consider TCI’s interpretation of the document in evaluating the historical record and issuing its February 2015 Opinion and Order ruling that NJZ and TFMC were alter egos.

Additionally, TCI’s characterization of the Court’s citation to this document in its February 2015 Opinion and Order is simply not accurate. In this regard, the Court stated that “Cyprus argues that there is evidence showing that all of NJZ’s subsidiaries conducted business solely with NJZ, and that the Court should infer that TFMC had a similar relationship with NJZ. In a War Work report sent to the FTC, NJZ stated that ‘[a]s a general introduction we would say that all material is charged at cost as it passes into the next department . . . .’” Dkt. No. 183, at 21-22. It is clear from the Opinion and Order that the Court recognized that the War Work report did not relate specifically to TFMC, but rather to the conduct of NJZ more broadly.

For these reasons, any and all relief requested in TCI's *Notice* should be denied.

Respectfully submitted,

s/ John F. Stoviak

Reid E. Robison, Esquire

OBA No. 7692

Timothy J. Bomhoff, Esquire

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Philadelphia, PA 19102-2186

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Facsimile: 215-972-1921

*Counsel for Plaintiff*

*Cyprus Amax Minerals Company*

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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of *Plaintiff Cyprus Amax Minerals Company's Response to Defendant's "Notice of Potential Record Citation Error"* were served on this date via the Court's ECF system upon the following counsel of record:

Mark D. Coldiron, Esquire  
Paula M. Jantzen, Esquire  
*Ryan Whaley Coldiron Shandy PLLC*  
900 Robinson Renaissance  
119 North Robinson Avenue  
Oklahoma City, OK 73102  
*mcoldiron@ryanwhaley.com*  
*pjantzen@ryanwhaley.com*

Paul D. Steinman, Esquire  
*Eckert Seamans Cherin & Mellott, LLC*  
600 Grant Street, 44th Floor  
US Steel Tower  
Pittsburgh, PA 15219  
*psteinman@eckertseamans.com*

*s/ John F. Stoviak*  
John F. Stoviak

Dated: August 12, 2016